

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	January 12, 2010
Time of Incident:	4:15 am
Location of Incident:	██████████ Chicago IL, 60655
Date of COPA Notification:	October 25, 2017
Time of COPA Notification:	12:01 pm

On January 12, 2010, at 4:15 a.m., off-duty Officer ██████████ and ██████████ Jr. were at Officer ██████████ home after having been out drinking since 11:00 p.m. on January 11, 2010, when ██████████ Jr. was shot with Officer ██████████ duty weapon. The case was investigated as an attempted suicide or possibly an attempted murder. Officer ██████████ made statements to 9-1-1 dispatch, CPD Detectives, IPRA, and COPA. During ensuing civil litigation, Officer ██████████ made statements under oath regarding the events. Several of Officer ██████████ material statements contradict the physical evidence and more credible statements by other witnesses.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████████ Employee ID # ██████████ DOA: ██████████ 2004, Police Officer, DOB: ██████████ Male, White
Subject #1	██████████ Jr., DOB: ██████████ Male, White

III. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████████	Allegation 1 It is alleged that Officer ██████████ star ██████████ knowingly made false statements while under oath, regarding the amount of alcohol he drank between the night of January 11, 2010, and	Sustained

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

the morning of January 12, 2010. Specifically, on May 4, 2012, Officer [REDACTED] gave a deposition under oath, at 33 N. LaSalle Street, Chicago, Illinois, in the civil case [REDACTED] v. *City of Chicago*, 10 L 11901 (Circuit Court of Cook County, Illinois, Law Division) (later removed to U.S. District Court as [REDACTED] v. *City of Chicago*, 14 CV 9665 (N.D. Ill.)) and gave the following answers in response to the following questions:

Q. Your testimony is that you had approximately two 12-ounce beers at [REDACTED] true?

...

A. Two beers at the most at [REDACTED]

Q. And approximately two beers at [REDACTED], true?

A. True.

Q. In addition to that you had less than one bottle at your home before the incident occurred, true?

A. True.

Q. So in total, your testimony here today is that you consumed approximately four to five bottles of beer the entire evening from approximately, again, estimate, from 11:00 p.m. on January 11, 2010, through approximately 4:15 the morning of January 12th?

...

A. Yes.

Q. Do you want to add to the number of bottles that you drank or to the drinks that you had or deduct from that after I move on from here?

	<p>A. No.</p> <p>Allegation 2</p> <p>It is alleged that Officer [REDACTED] star [REDACTED] knowingly made false statements while under oath about whether he was intoxicated on January 12, 2010, at 4:15 a.m. Specifically, when he gave the following answers in response to the following questions:</p> <p>A. I disagree with when she² states I was highly intoxicated and that I was belligerent. (sic)</p> <p>...</p> <p>Q. And it's your opinion that you were not intoxicated at the time of the incident, correct?</p> <p>...</p> <p>A. I believe I wasn't.</p> <p>...</p> <p>Q. So would I be correct that you are unaware of the personal feeling of what it is to be intoxicated, is that true?</p> <p>A. True.</p> <p>...</p> <p>Q. You have never been intoxicated prior to January 11, 2010, correct?</p> <p>...</p> <p>A. Correct.</p> <p>...</p> <p>Q. When you arrived at your house after leaving [REDACTED] and</p>	<p>Sustained</p>
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² "She" refers to Sergeant [REDACTED] who arrested Officer [REDACTED] that night and indicated in her report that he was "highly intoxicated" when the police arrived on scene.

	<p>before the incident, in your opinion were you intoxicated?</p> <p>A. No.</p> <p>Q. So your opinion is that you were not intoxicated, correct?</p> <p>A. Correct.</p> <p>Allegation 3</p> <p>It is alleged that on January 11, 2011, at 10 W. 35th Street, Officer [REDACTED]star [REDACTED] made false statements to IPRA regarding his intoxication in the morning of January 12, 2010. Specifically, when Officer [REDACTED] offered the following answer to the following questions:</p> <p>Q. . . . were you intoxicated at this point?</p> <p>A. No I don't think so. I'm not really sure if I was or not. ...</p> <p>Q. Okay. Um, and were you intoxicated while you were off duty?</p> <p>A. I, I don't think so, I'm not sure.</p> <p>Allegation 4</p> <p>It is alleged that on January 12, 2010, at 727 E. 111th Street, Officer [REDACTED]star [REDACTED] destroyed evidence by urinating on his hands in lockup prior to the administration of a GSR swab.</p>	<p>Sustained</p> <p>Not Sustained</p>
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IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 14: Prohibits making a false report, written or oral.

V. INVESTIGATION

a. Interviews

In an **interview with IPRA** on January 25, 2010, **Sergeant [REDACTED]** # [REDACTED] stated that on January 12, 2010, at approximately 4:39 a.m., while on duty and in uniform she responded to a dispatch call of a person shot near [REDACTED]. Sergeant [REDACTED] stated that when she arrived on scene she approached Officer [REDACTED] who was near the back of the ambulance and attempted to calm him down and control him. However, Sergeant [REDACTED] stated that Officer [REDACTED] was belligerent, combative, and smelled of alcohol.³

In a **deposition** given in the United States District Court, Northern District of Illinois, Eastern Division, on October 29, 2015, **Sergeant [REDACTED]** stated that on January 12, 2010, at approximately 4:30 a.m., she responded to a dispatch of a "person shot" at or near 107th and Troy. Upon arriving at the scene Sergeant [REDACTED] stated "we had to control the scene. It was very chaotic"⁴ and that "we had a problem with Officer [REDACTED]"⁵ Sergeant [REDACTED] further stated that she asked Officer [REDACTED] several times to stop obstructing the EMTs and/or the fire department personnel, but he would not stop. Sergeant [REDACTED] described Officer [REDACTED] as highly intoxicated based on the strong odor of alcohol.⁶ She further qualified her assessment that as a police officer she has investigated cases of DUI and other intoxicated-related offenses.

³ Attachment 26

⁴ Att. 47; Pg. 56 Lines 3-6

⁵ Att. 47; Pg. 56 Lines 15-18

⁶ Attachment 47

In an **interview with IPRA** on February 19, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that on January 12, 2010 at approximately 4:39 a.m. he responded to a dispatch of a person shot called in by an off-duty officer. Upon arrival at the scene, Officer [REDACTED] entered the residence. Officer [REDACTED] stated that he saw Officer [REDACTED] and that as fire personnel put [REDACTED] onto the stretcher Officer [REDACTED] was yelling and screaming frantically. Officer [REDACTED] further stated that Officer [REDACTED] was obviously intoxicated and that he could smell alcohol on him. Officer [REDACTED] was belligerent and "...every other word [REDACTED] used] was profanity."⁷

In a **deposition** given in the United States District Court, Northern District of Illinois, Eastern Division, on October 14, 2015, **Officer** [REDACTED] # [REDACTED] stated that on January 12, 2010 between 4:00 a.m. and 05:00 a.m. he and his partner Officer [REDACTED] # [REDACTED] responded to a radio call that stated the incident was called-in by an off-duty officer. Officer [REDACTED] stated that in an interview with IPRA he indicated that when he arrived Officer [REDACTED] was yelling and screaming frantically, and that based on his actions and appearances he could tell Officer [REDACTED] was intoxicated.⁸ During his deposition Officer [REDACTED] could not independently remember much of the incident and relied heavily on his IPRA interview to refresh his recollection.

In an **interview with IPRA** on February 9, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that on January 12, 2010 he and his partner, Officer [REDACTED] responded to an OEC call of a man shot in the head. Upon arrival at the scene of the incident Officer [REDACTED] observed Officer [REDACTED] and described him as being highly intoxicated, belligerent and uncooperative. Officer [REDACTED] stated that there was alcohol all over the room and Officer [REDACTED] had a slight odor of alcohol about him.⁹

In an **interview with IPRA** on April 1, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that on January 12, 2010 she and her partner, Officer [REDACTED] responded to a call of a person shot at [REDACTED]. At the scene of the incident Officer [REDACTED] observed Officer [REDACTED] trying to get inside the ambulance that was transporting [REDACTED]. Officer [REDACTED] indicated that Officer [REDACTED] appeared intoxicated because his actions were aggressive and he was loud and emotional.¹⁰

In an **interview with IPRA** on February 19, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that on January 12, 2010 he and his partner, Officer [REDACTED] responded to a call of a person shot to assist the officers assigned. Upon arriving at the scene at [REDACTED] Officer [REDACTED] stated that when he encountered Officer [REDACTED] outside of the residence he could smell the odor of an alcoholic beverage about Officer [REDACTED] and that Officer [REDACTED] slurred his speech. Officer [REDACTED] stated that Officer [REDACTED] directed profanities at him and Sergeant [REDACTED] when they attempted to dissuade Officer [REDACTED] from getting into the ambulance. Officer [REDACTED] stated that Officer [REDACTED] got very close to Sergeant [REDACTED] "literally nose to nose," and recalled Officer [REDACTED] "calling her a cunt

⁷ Attachment 49

⁸ Attachment 48

⁹ Attachment 24

¹⁰ Attachment 22

several times.” Officer [REDACTED] then performed an emergency takedown of Officer [REDACTED] after [REDACTED] lunged toward the sergeant.¹¹

In an **interview with IPRA** on March 25, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that he and his partner, Officer [REDACTED] responded to the scene of the incident to assist Beat [REDACTED] for a call of a person shot. While on scene Officer [REDACTED] observed Officer [REDACTED] being irate, swearing and yelling at Sergeant [REDACTED]. Officer [REDACTED] stated that Officer [REDACTED] appeared intoxicated in that he was rambling, his speech was slurred, and he “reeked” of an alcoholic beverage when Officer [REDACTED] got close to him.¹²

In an **interview with IPRA** on March 2, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that on January 12, 2010 he and his partner, Officer [REDACTED] arrived at the scene to assist the assigned unit for a call regarding a person shot. Once at the location of the incident he went inside the residence and saw that paramedics were treating a male subject. Officer [REDACTED] caught Officer [REDACTED] attention as Officer [REDACTED] leaned into the area where the paramedics worked saying, “Check his vitals, he’s still breathing.” Officer [REDACTED] tried to speak with Officer [REDACTED] and suggested they go outside for air. With that, Officer [REDACTED] backed up against a wall for a short time. Officer [REDACTED] stated that Officer [REDACTED] appeared intoxicated because there were beer bottles on the table, his breath smelled of an alcoholic beverage and he was belligerent.¹³

In an **interview with IPRA** on February 23, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that while responding as an assist unit to a call of a person shot at [REDACTED] Officer [REDACTED] appeared intoxicated in that he failed to follow Sergeant [REDACTED] directions, and he was belligerent and irate.¹⁴

In an **interview with IPRA** on March 3, 2010, **Police Officer** [REDACTED] # [REDACTED] stated that he and his partner, Officer [REDACTED] responded to a call of a person shot to assist other officers. While at the scene of the incident Officer [REDACTED] observed Officer [REDACTED] run to the ambulance and try to get inside by banging on the doors and yelling. Officer [REDACTED] appeared intoxicated in that he slurred his speech and his whole demeanor appeared that he was intoxicated.¹⁵

In a **deposition** given in the United States District Court, Northern District of Illinois, Eastern Division, on November 17, 2015, **Police Officer** [REDACTED] # [REDACTED] confirmed that in his IPRA statement he said Officer [REDACTED] appeared intoxicated based on his demeanor and slurred speech.¹⁶

In an **interview with IPRA** on March 12, 2010, **Chicago Fire Department Paramedic** [REDACTED] stated that on January 12, 2010 at approximately 4:38 a.m. she responded to the scene of an incident regarding a call of a suicide at [REDACTED] with her partner, Paramedic Deborah

¹¹ Attachment 44

¹² Attachment 20

¹³ Attachment 21

¹⁴ Attachment 23

¹⁵ Attachment 25

¹⁶ Attachment 36

██████████ Paramedic ██████████ stated that she thought that Officer ██████████ was intoxicated because he smelled of alcohol and he was belligerent.¹⁷

In a deposition given in the United States District Court, Northern District of Illinois, Eastern Division, on October 14, 2015, **Chicago Fire Department Paramedic** ██████████ stated that there was an odor of alcohol in the house that was pretty strong. Additionally, she described Officer ██████████ as irate and out of control. Specifically, she described Officer ██████████ as “screaming at everyone and swinging his arms around and coming closer and closer to the patient and crew.”¹⁸

In an **interview with IPRA** on November 14, 2011, **Chicago Fire Department Paramedic** ██████████ stated that on the day of the incident they received a call of a person shot and responded to ██████████. On scene as she was preparing to set up the “stair chair” to transport ██████████, Officer ██████████ charged at her. Paramedic ██████████ added that she was afraid Officer ██████████ was going to hit her at this point. Paramedic ██████████ described Officer ██████████ as being intoxicated in that he was “loud and obnoxious,” and that he walked with an unsteady gait.¹⁹

In an **interview with IPRA** on March 12, 2010, **Chicago Fire Department Firefighter** ██████████ stated that Officer ██████████ was inside the residence and appeared to be intoxicated because he slurred his speech and stumbled.²⁰

In an **interview to IPRA** on January 15, 2010, ██████████ stated that he did not witness the incident. ██████████ stated that on January 11, 2010 he encountered his cousin ██████████ at ██████████ Bar. ██████████ met Officer ██████████ for the first time at that time. ██████████ stated that he saw ██████████ drinking alcohol and that he appeared to be intoxicated. ██████████ had just met Officer ██████████ and therefore did not know if Officer ██████████ was intoxicated.²¹

In an **interview with IPRA** on January 11, 2011, **Accused Police Officer** ██████████ # ██████████ stated that on January 11, 2010, he had plans to go to ██████████ Bar with friends from work. Officer ██████████ could not say how many drinks he had at ██████████, but he stated that he only drank beer. The group was at ██████████ until closing time and they decided to continue drinking at ██████████. Officer ██████████ stated that he had more to drink there, but he did not recall how much he drank or if he drank anything other than beer. Officer ██████████ stated that he was not sure if he was intoxicated.²²

In a **deposition** taken in the Circuit Court of Cook County, Illinois Court Department - Law Division, on May 4, 2012, in case number 10 L 11901 (later filed in U.S. District Court 14 CV 9665), and subsequently made a part of the record at trial, **Accused Police Officer** ██████████ # ██████████ testified that between 11:00 p.m. on January 11, 2010, he consumed no more than two beers at ██████████ from the point he arrived until closing time at 2:00 a.m. Officer ██████████ stated he then went to a late night bar ██████████ where he stated he consumed no more than two

¹⁷ Attachment 27

¹⁸ Attachment 31

¹⁹ Attachment 42

²⁰ Attachment 29

²¹ Attachment 46

²² Attachment 35

beers before returning to his house. He further stated that he opened a beer after returning home from [REDACTED] but consumed less than a full beer. Officer [REDACTED] agreed that he consumed a total of approximately four to five 12-ounce beers from 11:00 p.m., January 11, 2010, through 4:15 a.m., January 12, 2010. Officer [REDACTED] answered no when asked if he had ever been intoxicated prior to January 11, 2010, and that it was true he was unaware of the personal feeling of being intoxicated. Officer [REDACTED] added that when he left [REDACTED] and arrived at his house he was not intoxicated. Officer [REDACTED] also gave the following testimony about intoxication:

Q. When you arrived at your house after leaving [REDACTED] and before the incident, in your opinion, were you intoxicated?

A. No.

Q. So your opinion is that you were not intoxicated, correct?

A. Correct.

Q. Are you familiar with what the legal level of intoxication is in the state of Illinois?

A. Yes.

Q. What is it? What's your understanding of what that .08 level does to somebody in terms of impairment?

A. That is when the signs of intoxication are apparent.

Officer [REDACTED] agreed that .09²³ was above the legal limit for intoxication in Illinois. He testified that he had not had anything to drink or taken mouthwash in the seven or eight hours between the shooting and the breathalyzer test.

Q: Would you agree that if the number is correct . . . point 093, it would indicate that you were intoxicated approximately eight hours after the event, correct?

A: It could indicate that, yes.²⁴

In an **interview with COPA** on January 23, 2018, **Accused Police Officer [REDACTED] # [REDACTED]** was confronted with the relevant portions of his prior statements from his January 11, 2011 interview with IPRA and his May 4, 2012 deposition. Officer [REDACTED] was asked if he stood by his prior statement or wanted to add to or amend of the statements. For all of the prior statements presented Officer [REDACTED] declined to add or amend his statements and stated his answers were truthful. Additionally, Officer [REDACTED] stated when he was placed in the interview room he requested multiple times to use the restroom. Eventually, Officer [REDACTED] urinated in the interview room however he stated that he did not urinate on his hands or in an effort to destroy evidence.²⁵

In a **deposition** given in the United States District Court, Northern District of Illinois, Eastern Division, taken November 23, 2015, **Sergeant [REDACTED] # [REDACTED]** stated that in January of 2010 he was a violent crimes supervisor with the detectives' division. On January 11, 2010, Sergeant [REDACTED] stated that after viewing the Electronically Recorded Interview (ERI) he

²³ On January 12, 2010 a breathalyzer test of Officer [REDACTED] showed a BAC of .093. See attachment 33

²⁴ Attachment 34

²⁵ Attachments 51-53

observed Officer [REDACTED] urinating in the interview room in Area 2²⁶ prior to the GSR kit being administered. However, Sergeant [REDACTED] did not know if Officer [REDACTED] urinated on his hands or took any steps to contaminate or remove debris or evidence from his hands.²⁷

a. Digital Evidence

The **ERI** turned on when Officer [REDACTED] was placed in the CPD Area 2 interview room on January 12, 2010. According to the detective supplemental report the recording was turned off at Sergeant [REDACTED] direction at 7:44 a.m.²⁸ The video shows the following:

06:03:00 - Officer [REDACTED] is brought into the interview room.

06:07:03 - An Officer comes to cuff Officer [REDACTED] to the wall, Officer [REDACTED] asks to use the bathroom before he is cuffed and is denied.

06:07:39 - During pat down, Officer [REDACTED] asks if he can use the bathroom after he is searched.

06:08:09 - Officer [REDACTED] asks again to use the restroom and asks why he cannot. He is told the sergeant is coming in and that he cannot use the restroom before the sergeant arrives.

06:08:28 - Officer [REDACTED] is cuffed to the wall.

06:09:04 - Sergeant [REDACTED] comes into the room and introduces himself, Officer [REDACTED] asks again to use the restroom - Sergeant [REDACTED] tells him just to hold on a minute and that someone would be in to interview him soon.

From that point on he is alone in the room by himself, sitting on a bench, with his left hand cuffed to the wall next to him.

06:27:44-06:28:50 - Officer [REDACTED] crosses his legs and begins swinging them back and forth. He puts his hand in between his legs and presses down.

06:29:20 - Officer [REDACTED] begins knocking on the bench and calling out to the officers outside of the room, trying to get their attention.

06:30:18 - Sergeant [REDACTED] enters, introduces himself, [REDACTED] asks to use the restroom [REDACTED] tells him that he must wait longer. [REDACTED] says "honestly, I will get up and piss on the fucking wall [pointing to the wall next to him] what do you want me to do? Why do I have to wait?" Sergeant [REDACTED] tells him he will try to speed things up and then leaves.

06:31:22 - Officer [REDACTED] crosses his legs again and begins rocking back and forth.

06:32:40 - Officer [REDACTED] begins knocking on the bench again and shouts "C'mon guys! Let's Go" He shouts multiple times, getting louder and louder.

06:34:01 - Officer [REDACTED] stands up and faces the wall. His back is to the camera, he crosses his legs.

06:34:26 - Officer [REDACTED] yells "Yo Sarge!" twice.

06:34:45 - Officer [REDACTED] unzips his pants with his right hand and can be heard urinating from

06:34:55 until 06:35:34 - during this time, his left hand appears to be away from his body and the back of his right shoulder and arm are visible. His right hand cannot be seen.

06:53:40 - Officers come back into the room to do the GSR test and to take his photograph.

07:00:18-07:01:00 - Officer performs GSR test on Officer [REDACTED] left and right hands. The Officer performing the test is blocking the camera's view of Officer [REDACTED] hands. However, from what can be seen, from what the officer performing the test says, and from the length of

²⁶ Area 2 is now known as Area South

²⁷ Attachment 32

²⁸ Attachment 55

time administering the test – it appears that the Officer is only testing Officer [REDACTED] hands and not his wrists or forearms.²⁹

b. Physical Evidence

According to an **Alcohol/Drug Influence Report and Intoximeter Test Receipt**, Officer [REDACTED] was given a Breathalyzer test at 12:17 p.m. on January 12, 2010, at the [REDACTED] District Police Station by Sergeant [REDACTED] # [REDACTED] Unit [REDACTED] Sergeant [REDACTED] noted that Officer [REDACTED] had a slight odor of alcohol on his breath at that time. The Breathalyzer results indicated that, at 12:19 p.m., Officer [REDACTED] Blood Alcohol Content (B.A.C.) was .093g/210L.³⁰

A **Back-Extrapolation** calculation dated January 22, 2010, and completed by Dr. [REDACTED] Jr of the Illinois State Police – Division of Forensic Services, Forensic Science Center – Chicago, estimated that Officer [REDACTED] Blood Alcohol Content at the time of the incident was between .169 g/dL and .246 g/dL.³¹

c. Documentary Evidence

In a **Synoptic Report**, dated January 12, 2010, Sergeant [REDACTED] # [REDACTED] Unit [REDACTED] reported that he responded to Area 2 regarding an attempted suicide by a non-department member who used Officer [REDACTED] firearm. The subsequent investigation of the incident revealed that Officer [REDACTED] was intoxicated and failed to secure his duty firearm. The report documents that Sergeant [REDACTED] reported Officer [REDACTED] as being highly intoxicated. The report further documented that Officer [REDACTED] was given a breath test that resulted in a BAC reading of .093 at 12:17 p.m. on January 12, 2010.³²

According to the **Arrest Report (Central Booking # [REDACTED])** and **Case Report (Records Division # [REDACTED])**, [REDACTED] was arrested January 12, 2010 for Simple Assault against Sergeant [REDACTED]. The Incident Narrative section of the Arrest and Case Report indicated that Officer [REDACTED] was highly intoxicated, belligerent and very irate. According to the Lockup Keeper Processing section of the Arrest Report, Officer [REDACTED] was received into the lockup at 12:31 p.m. and at that time he did not show any signs of being under the influence of alcohol/drugs³³.

Sergeant [REDACTED] Officers [REDACTED] and [REDACTED] completed **Tactical Response Reports (TRR)** regarding their contact with Officer [REDACTED]. In each report, the watch commander reported “arrestee is a department member who was apparently intoxicated.”³⁴

²⁹ Attachment 9

³⁰ Attachments 30, 33

³¹ Attachment 28

³² Attachment 50

³³ Attachments 43, 45

³⁴ Attachments 37-41

VI. ANALYSIS

COPA recommends a finding of **Sustained** for **Allegation 1** against **Accused Police Officer [REDACTED]** # [REDACTED] that he provided a false statement during a sworn deposition in that he only had four to five 12 ounce beers between 11:00 p.m. on January 11, 2010, and 4:15 a.m. on January 12, 2010.

Chicago Police Rule 14 prohibits the falsification of any report, written or oral. The relevant section of the Collective Bargaining Agreement (herein CBA) 6.1 M. states that a Rule 14 violation will be charged when, “the Officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation.”

In sum, Officer [REDACTED] gave a sworn statement under oath in which he claimed he was not intoxicated after leaving [REDACTED] bar, arriving at his house just prior to when [REDACTED] was shot. These statements are contradicted by several eye witnesses and contradicted by Officer [REDACTED] BAC of 0.093g/210L taken at 12:17 p.m. on January 12, 2010. For reasons stated below, the evidence supports the accuracy of the back extrapolation performed by the ISP toxicologist. However, back extrapolation notwithstanding, it is clear, and Officer [REDACTED] agreed at deposition, that a BAC of .093 “could” indicate he was intoxicated at 12:17 p.m. the next day.

ISP’s back extrapolation estimated [REDACTED] BAC at the time of the incident was between .169 g/dL and .246 g/dL. Back extrapolation is most reliable when an individual is in the elimination phase – after the body stops absorbing alcohol – which can be between 15 and 90 minutes after an individual’s last drink.³⁵ Here, Officer [REDACTED] last drink was sometime before 4:15 a.m., and the breathalyzer was not administered until nearly eight hours later. During the intervening eight hours, Officer [REDACTED] was in police custody, thus we know he did not have any additional alcohol. Accordingly, it is more probable than not that Officer [REDACTED] was between two times and three times the legal limit of intoxication at the time of the shooting and the police and EMT response to his house. His statements under oath and to IPRA that he was not intoxicated were false.

Moreover, Officer [REDACTED] stated that he had a total of four to five 12 oz. beers³⁶ from 11:00 p.m. on January 11, 2010, through 4:15 a.m. on January 12, 2010. In direct contrast, the fact that Officer [REDACTED] had a BAC of 0.093 at 12 p.m., eight hours after the shooting, would be impossible had he only drank five beers during a five-hour period and stopped consuming alcohol eight hours prior to providing a sample for the breathalyzer. Even using the conservative estimate of the range for the back extrapolation of .169 g/Dl, five beers over that five-hour period is simply not consistent. According to the National Highway Traffic Safety Administration (NHTSA)³⁷, one 4.5% alcohol by volume (ABV) beer only raises a 200-pound person’s BAC by 0.02, while the average person’s BAC decreases 0.015 percentage each hour after drinking. Officer [REDACTED] testified he was out drinking for five hours and only drank five light beers – two between 11:00 p.m. and 2:00 a.m., two between 2:00 a.m. and 4:00 a.m., and less than one between 4:00 a.m. and 4:15 a.m. If this were true, his BAC would have been around 0.025 around 4:15 a.m., and would have been zero by 6:30 a.m. Assuming, *arguendo*, Officer [REDACTED] only drank five beers, and drank all five of those

³⁵ *People v. Floyd*, 2014 IL App 2d 120507.

³⁶ [REDACTED] noted that he drank Miller Lite or Bud Light. Three bottles of “Bud light” and 2 bottles of “Full Moon” were recovered from [REDACTED] home

³⁷ “Approximate Blood Alcohol Content (BAC) In One Hour” table by NHTSA, attached hereto as Exhibit 1.

beers right before the shooting, his peak BAC would have been 0.10 at 4:15 a.m., and by 12:00 p.m. his BAC would have been a 0.0. Instead, Officer [REDACTED] BAC was still 0.093 at approximately 12:15 p.m. It is impossible that Officer [REDACTED] only alcohol intake between 11:00 p.m. and 4:15 a.m. was four beers.

For the same reasons stated in support of the findings for Allegation 1, COPA recommends a finding of **Sustained** for **Allegation 2** against **Accused Police Officer [REDACTED] # [REDACTED]** that he provided a false statement under oath that he was not intoxicated while off duty the night of January 11, 2010, and the morning of January 12, 2010.

For the same reasons stated in support of the findings for Allegation 1 and 2, COPA recommends a finding of **Sustained** for **Allegation 3** against **Accused Police Officer [REDACTED] # [REDACTED]** that he provided a false statement to IPRA that he was not intoxicated while off duty the night of January 11, 2010, and the morning of January 12, 2010.

COPA recommends a finding of **Not Sustained** for **Allegation 4** against **Accused Police Officer [REDACTED] # [REDACTED]** that Officer [REDACTED] destroyed evidence by urinating on his hands in lockup prior to the administration of a GSR swab. No one witnessed or testified that they witnessed Officer [REDACTED] urinating on his hands. From review of the ERI, there is insufficient evidence to conclude that Officer [REDACTED] was deliberately attempting to urinate on his hands. Officer [REDACTED] asked to use the washroom multiple times and was in the interview room alone for 20 minutes prior to urinating against the wall. It is logical that if Officer [REDACTED] was trying to destroy evidence, he would have acted as soon as he had the opportunity to do so. Instead Officer [REDACTED] asks everyone who comes into the room if he can use the washroom, and then yells out multiple times before standing up to urinate against the wall. While he is urinating, Officer [REDACTED] left hand is visible the entire time. While Officer [REDACTED] right hand is not visible, there is insufficient evidence to conclude that he intentionally urinated on his hand to destroy evidence.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

i. COPA has reviewed Officer [REDACTED] Complimentary and Disciplinary History.

ii. Recommended Penalty, by Allegation

1. Allegation No. 1

Based on the egregious nature of the allegation, COPA recommends that Officer [REDACTED] be separated from the Chicago Police Department.

2. Allegation No. 2

Based on the egregious nature of the allegation, COPA recommends that Officer [REDACTED] be separated from the Chicago Police Department.

3. Allegation No. 3

Based on the egregious nature of the allegation, COPA recommends that Officer [REDACTED] be separated from the Chicago Police Department.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer [REDACTED]	1. Provided false statements in violation of rule 14 (see above)	Sustained
	2. Provided false statements in violation of rule 14 (see above)	Sustained
	3. Provided false statements in violation of rule 14 (see above)	Sustained
	4. Attempted to destroy evidence by urinating on his hands prior to GSR test was performed.	Not Sustained

Approved:



Sydney R. Roberts
Chief Administrator

9/20/18
Date

Appendix A

Assigned Investigative Staff

Squad#

Investigator:

Supervising Investigator:

Deputy Chief Administrator:



Approximate Blood Alcohol Content (BAC) In One Hour

Source: National Highway Traffic Safety Administration

Drinks	Body Weight In Pounds								Influenced
	100	120	140	160	180	200	220	240	
1	.05	.04	.03	.03	.03	.02	.02	.02	Possibly
2	.09	.08	.07	.06	.05	.05	.04	.04	
3	.13	.11	.11	.09	.08	.07	.06	.06	Impaired
4	.18	.14	.13	.11	.09	.08	.08	.08	
5	.23	.18	.17	.14	.12	.11	.10	.10	Clearly Impaired
6	.27	.21	.20	.16	.14	.13	.12	.11	
7	.32	.24	.23	.18	.16	.15	.14	.13	
8	.36	.27	.26	.21	.18	.17	.16	.15	
9	.41	.31	.30	.24	.20	.19	.18	.17	
10	.45	.34	.33	.26	.22	.21	.20	.19	

Subtract .015 for each hour after drinking.

One drink equals 1.5 oz. of 80 proof liquor (40%), 12 oz. beer (4.5%), or 5 oz. wine (12%).

Note: The figures are averages and may vary based on the amount of food in your stomach.